

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA
CASE NO.: 02-487

INQUIRY CONCERNING JUDGE SUPREME CT. CASE NO. SC03-1171
GREGORY P. HOLDER;

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MOTION FOR INSTRUCTIONS CONCERNING TRANSCRIPT

The Hearing Panel of the Judicial Qualifications Commission (JQC) respectfully seeks instruction from the Court regarding the preparation and filing of a transcript of the proceedings before the Hearing Panel which occurred on June 6, 2005 through June 13, 2005. After hearing the evidence, the Hearing Panel entered an Order of Dismissal on June 23, 2005, concluding that the evidence did not meet the clear and convincing standard. This order was entered pursuant to the first sentence of Rule 20 of the rules governing the JQC. Rule 20 provides as follows:

Certification of Hearing Panel Recommendations to Supreme Court:

If the Hearing Panel dismisses the formal charges, the Hearing Panel shall promptly file a copy of the dismissal order certified by the Chair of the Hearing Panel with the Clerk of the Supreme Court. Upon making a determination recommending discipline, retirement or removal of a judge, the Hearing Panel shall file a copy of the recommendation certified by the Chair of the Hearing Panel, together with a transcript and the findings and conclusions, with the Clerk of the Supreme Court and shall mail to the judge and to the judge's attorney(s) notice of such filing, together with a copy of such recommendations, findings and conclusions.

The Hearing Panel concluded that a transcript was not necessary because the Panel dismissed the charges. The second sentence of Rule 20 deals with the situation where the Hearing Panel finds a judge guilty of misconduct and recommends

discipline. In that circumstance, a transcript and the full record is expressly required. The Panel concluded that under the first sentence of the Rule governing a dismissal, a transcript was unnecessary. On July 12, 2005, the Hearing Panel sent a letter to the Clerk of this Court and to counsel raising this question and offering to supply the transcript if requested. No request has yet occurred. A copy of this letter is attached as Exhibit "A."

A Motion for Attorney's Fees, supporting written argument and a Request for Oral Argument before this Court have now been filed by Judge Holder's counsel. These pleadings indicate Judge Holder's view that this Court now has jurisdiction. Under these circumstances the JQC Hearing Panel requests instructions from the Court as to whether a transcript and hearing record should be prepared and filed.

I hereby certify that a copy of the foregoing has been furnished by mail to the following this 24th day of August, 2005.

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**FLORIDA JUDICIAL QUALIFICATIONS
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